

# EXHIBIT

4

Vance Pearson  
Deposition

1       sake of including it. I don't have any questions about  
2       that document.

3               MS. GUERRASIO: I'd just like to put on the  
4       record that last week in correspondence with Ms. Rubin,  
5       Plaintiff's Counsel, we noticed Ms. Vance would be  
6       testifying as to topics one and two in the deposition  
7       notice. I'd just like to make that clear for the  
8       record.

9       BY MS. RUBIN:

10           Q     I want to ask you about some of the basic  
11       stuff. We've already started talking about this, but I  
12       want to be clear. Is there any dispute -- you  
13       understand the basic nature of this complaint against  
14       the company; is that fair to say?

15           A     Yes.

16           Q     This is an FMLA claim that my client claims  
17       she was discriminated against and terminated on the  
18       basis of having requested FMLA leave in violation of  
19       that law. Is that consistent with what you know about  
20       the case?

21           A     Yes.

22           Q     Is there any dispute from BT Americas as to

1       whether she had provided a legitimate request for FMLA  
2       leave?

3               MS. GUERRASIO:  Objection.

4               A     No.

5       BY MS. RUBIN:

6               Q     Is there any dispute on BT's part that my  
7       client was entitled to the protections of the FMLA?

8               A     No.

9               MS. GUERRASIO:  Objection.

10              (Exhibit No. 3 was marked for identification.)

11       BY MS. RUBIN:

12              Q     I'm going to hand you another document.  Have  
13       you seen this document before?

14              A     No.

15              Q     May I ask you to take a moment or two to  
16       review it, please?

17              A     Okay.

18              Q     Have you had an opportunity to review the  
19       document?

20              A     Yes.

21              Q     Is this a form that you are familiar with?

22              A     Yes.

1 A Uh-huh.

2 Q Now, with respect to poor performance, just so  
3 we're clear, can you give me in a nutshell the reasons  
4 for Nadine Ranade's termination?

5 MS. GUERRASIO: Objection.

6 A She was removed from -- she is -- was a  
7 consultant, a senior consultant, and three different  
8 clients asked her to be removed from their accounts.

9 BY MS. RUBIN:

10 Q For that reason she was terminated?

11 A Correct.

12 Q Have you had an opportunity to look into each  
13 of those circumstances?

14 A Yes.

15 Q With respect to the -- Ms. Ranade was placed  
16 in a performance improvement plan by BT Americas; is  
17 that right?

18 A Correct.

19 (Exhibit No. 4 was marked for identification.)

20 BY MS. RUBIN:

21 Q I'm going to show you a document. Again,  
22 please ignore my handwriting on the top with Delta

1       number 10. That was taken from Ms. Ranade's deposition  
2       actually.

3               May I ask you to look at that document, the  
4       performance improvement plan, and tell me if you've seen  
5       it before.

6           A     I have.

7           Q     And have you reviewed it in preparation for  
8       this case?

9           A     I have.

10          Q     This testimony, rather.

11               I wanted to ask you, actually, a couple of  
12       things about this. A monitoring period -- this talks  
13       about the performance plan start date being September  
14       14, 2010, up in the caption.

15          A     Yes.

16          Q     It says across from that, the monitoring  
17       period is going to be 90 days?

18          A     Yes.

19          Q     Is that the longest monitoring period that's  
20       available for a performance improvement plan?

21          A     As a practice, yes.

22          Q     So a performance improvement plan could have a

1 monitoring period of as little as 30 days, at least  
2 that's indicated on the form?

3 A Correct.

4 Q Do you know how the decision was made to have  
5 the monitoring period extend for 90 days in Ms. Ranade's  
6 case?

7 A No.

8 Q Have you had an opportunity to talk to anybody  
9 about that?

10 A With her performance improvement plan, I  
11 believe they extended it longer than 90 days according  
12 to Ms. Charlton, because of the time Ms. Ranade was out.  
13 And so the 90 days they felt was enough time for her to  
14 be able to turn her performance around and be  
15 successful. So they gave her the longest amount of  
16 time, and then they extended it because she had been out  
17 on leave.

18 Q How long had she been out on leave?

19 A Well, she went out on leave while she was on  
20 her performance improvement plan.

21 Q Was she out for an extended period?

22 A I believe her leave ended up being two weeks.

1 Q And it was within her authority to do so given  
2 her position?

3 A Absolutely.

4 Q With respect to the PIP have you had an  
5 opportunity to review this document prior to today?

6 A Yes.

7 Q This particular --

8 A Yes.

9 Q Okay. I want to see if I can narrow and  
10 define the areas of performance that needed improvement.  
11 Was Ms. Ranade -- this is about -- or tell me what were  
12 the areas of performance that were noted as being  
13 specifically in need of improvement.

14 A May I look at the document?

15 Q Please.

16 A The majority of the areas that she needed  
17 improvement were her soft skills.

18 Q How do you define soft skills in that context?

19 A One of the areas was her communication, her  
20 communications with her team members, with her  
21 management, and with her clients.

22 Q Can you tell me are there any specific

1           Q     Are the concerns with respect to both of those  
2     clients centered around soft skills and communication?

3           A     Correct.

4           Q     So we're not talking about technical  
5     deficiencies?

6           A     Correct.

7           Q     Her technical knowledge or we're not talking  
8     about productivity?

9           A     We are also talking about her inability to be  
10    found during working hours; her taking time off without  
11    notifying anyone. That was a problem.

12          Q     And that's separate in BT's view from soft  
13    skills?

14          A     That would also be considered a soft skill.  
15    But her technical skills, no, that was not a problem.

16          Q     And were there productivity or production  
17    goals that she was supposed to be meeting during this  
18    period of time, productivity ratings?

19          A     She's a project manager. So she is in charge  
20    of the project, making sure that the project meets  
21    goals.

22          Q     And is that part of her performance, is to



1 deliver the deliverables on time?

2 A Correct.

3 Q Is that performance evaluated somewhere?

4 A Yes.

5 Q Are there any revenue goals that she's also  
6 required to make?

7 A Not personally.

8 Q But for the project?

9 A As part of a team.

10 Q Are there any individual productivity goals  
11 that she's supposed to be meeting during this time also?

12 A I don't know what those would have been.

13 Q If there were such benchmarks that she was  
14 supposed to be meeting, would those be set out in her  
15 performance evaluations?

16 A They may have.

17 Q So coming back to this performance improvement  
18 plan, we have the soft skills, communication, and you're  
19 also including within those definitions the  
20 availability, reliability?

21 A And absenteeism.

22 Q Absenteeism. Do you know whether her request

1 to go part time had anything to do with Unilever's  
2 decision not to get another manager for the project?

3 MS. GUERRASIO: Objection.

4 A They were not able to make that accommodation  
5 on the Unilever account.

6 BY MS. RUBIN:

7 Q So is that one of the reasons she was taken  
8 off of the Unilever account, because they couldn't work  
9 it out with her being part time?

10 A Well, they had already asked for her to be  
11 removed, but where they were in the project they decided  
12 couldn't wait -- sort of wait it out until the end of  
13 the project for her to be removed just for continuity's  
14 sake. But they had already requested that she be  
15 removed from that account, and then they were not able.  
16 And when she had to go part time, they were not able to  
17 make that accommodation on top of already asking her to  
18 be removed from the account.

19 Q Who at Unilever asked her to be removed?

20 A From BT it would have been Afshin Safari. And  
21 he would have gotten his request from his contact at the  
22 Unilever account.

1 Q And that would be?

2 A I don't know.

3 Q And Afshin Safari is a BT employee?

4 A At that time he was.

5 Q And what was his title?

6 A I don't know, but he served as the account  
7 manager for the U.S. portion of the Unilever account.

8 Q What was the reason given for them asking her  
9 to be removed from the account?

10 A Some of the reasons that were given -- or the  
11 reasons that were given were her lack of communications,  
12 their inability to be able to find her, her  
13 communications with the client.

14 Q Were there any -- I'm sorry, I interrupted  
15 you. Communications and not being able to find her?

16 A Yes.

17 Q Anything else?

18 A I think there were other things. I don't  
19 remember exactly what they were, but there were numerous  
20 concerns that they had with her. Just her general  
21 demeanor with the team was not good.

22 Q Demeanor with the team.

1           A     There were hundreds of projects on that  
2     account.

3           Q     Do you know how many she was involved in,  
4     Nadine?

5           A     I do not.

6           Q     Do you know how many projects existed on the  
7     Unilever account?

8           A     I don't, but there were multiple. But  
9     Unilever and P and G are two of our largest clients with  
10    BT Americas and BT PLC. So our whole corporation.

11          Q     So at the time the PIP is instituted in  
12    September of 2010, Nadine had been asked to be removed  
13    from two contracts; is that right?

14          A     Correct.

15          Q     One P and G at the project at Mehoopany?

16          A     Yes.

17          Q     And another Unilever. Where was that project  
18    physically located?

19          A     I don't know. The Unilever account is in the  
20    Northeast, but I don't know exactly -- since she's a  
21    homeworker, she may have worked on that just virtually.  
22    I don't know where the actual project was.

1       them.

2           Q     Any specific events occurring at Unilever that  
3       gave rise to this PIP?

4           A     I don't remember exactly what those were.

5           Q     Are you looking at page 3 of this document?

6           A     Uh-huh.

7           Q     Where it talks about the previous discussions  
8       in about the middle of the page, under 7/30/2010, the  
9       note is: Met in office with Nadine for one-to-one first  
10      quarter performance rating, performance on Unilever.  
11      And then it says: Feedback received about PT.

12                Do you know what PT stands for?

13               MS. GUERRASIO: Objection. You can answer.

14           A     Personal time, I would imagine.

15      BY MS. RUBIN:

16           Q     Could it be part time?

17           A     No, I don't think so. It could have been,  
18      because I think they could have -- no. Wasn't that  
19      before she was on leave?

20           Q     The doctor's certificate is dated September  
21      21, but I believe there had been some discussion before  
22      that with her boss.

1 MS. GUERRASIO: Objection.

2 BY MS. RUBIN:

3 Q I want to know what PT means.

4 A I don't know. You'd have to ask Jayne. But  
5 that was long before anybody -- I mean before her FMLA.

6 Q It was before the September 21 request, yes.

7 A Yes.

8 Q So, yes, it's dated July 30th.

9 A So it was long before she even asked for FMLA,  
10 so I don't --

11 Q Do you know whether she had any  
12 conversations --

13 A Maybe it was about her physical therapy. I  
14 know that she went to physical therapy, and Jayne  
15 allowed her to go to that. But that's just my guess. I  
16 don't know what PT means. It could be that and it could  
17 be lots of things.

18 MS. GUERRASIO: We only want you to testify as  
19 to what you know.

20 BY MS. RUBIN:

21 Q Right. Speculation --

22 A Is not good.

1 Q -- is not good.

2 A I have no idea.

3 Q Where it says, back issue. Do you know what  
4 that was?

5 A I don't know.

6 Q And communication protocol, is that what we've  
7 been talking about?

8 A Yes.

9 Q And then DMV letter, she had, tivo right  
10 (phonetic). Do you know what that is about?

11 A No.

12 Q So the deficiencies that did exist in  
13 Ms. Ranade's performance would be addressed in this PIP.  
14 And if it's not addressed in the PIP, is it fair to say  
15 that the other aspects of her performance were  
16 satisfactory?

17 A Correct.

18 Q I want to ask you about a similar set of  
19 questions with respect to the termination.

20 A Okay.

21 Q I don't seem to have a letter of termination.  
22 Do you know whether one exists?

1 A No.

2 Q One does not exist?

3 A One does not exist.

4 Q That would explain why I don't have one.

5 Okay. How was the termination delivered to

6 Ms. Ranade?

7 A It would have been delivered in person.

8 Q Verbally?

9 A Yes.

10 Q And who would have delivered the termination  
11 notice?

12 A Jayne Charlton.

13 Q Who was the decision maker with respect to the  
14 decision to terminate Ms. Ranade's employment?

15 A Jayne Charlton.

16 Q Anyone else?

17 A She had the final decision.

18 Q All right. Let me ask you to -- oh, kind of a  
19 little bit of off subject. Have you ever heard the  
20 phrase "internal swap out"?

21 MS. GUERRASIO: Objection. You can answer.

22 A That is just taking one consultant to another,



1 from one client to another. Swapping people.

2 BY MS. RUBIN:

3 Q How are people assigned to the various  
4 projects?

5 A Based on their skill sets.

6 Q And the decisions made about that are made by  
7 their managers at what level?

8 A The business comes in and says what they need,  
9 and the -- it's done in a group setting. And they'll  
10 come through, and they will say what projects are open  
11 and what skills they're looking for. So say you need a  
12 link developer, they will come through, and the people  
13 managers will say, I have someone who knows link and is  
14 on the bench and is available, and they can be assigned  
15 to it or not.

16 It also has to do with your location. It has  
17 to do with lots of different factors.

18 Q So with respect to Nadine Ranade, would Jayne  
19 Charlton have been the matchmaker between the projects  
20 and their needs and Nadine's skill sets and her  
21 abilities?

22 A Correct.

1 fair to say generally?

2 MS. GUERRASIO: Objection.

3 A Correct.

4 BY MS. RUBIN:

5 Q Does every project manager always get renewed  
6 on every contract?

7 A No.

8 Q And are people swapped around among different  
9 projects during the course of their career?

10 A Yes.

11 Q You used the phrase "on bench," before. I'd  
12 like to ask you to please tell me what that means.

13 A On the bench is when a consultant is not  
14 currently on a client engagement. So they're not  
15 working for a client account. Theirs may have ended.  
16 And there may not be someplace else for them to go, and  
17 so they sit on the bench, is the phrase, until a new  
18 engagement becomes available.

19 Q Is there a policy about who gets benched or  
20 how long an employee is allowed to be on the bench  
21 before something else happens? What are the rules  
22 around that?

1 Q And that was someone whose job was to what?

2 A She had a job on the account that Ms. Charlton  
3 had asked her to also mentor Nadine so that she could be  
4 successful on the account, so to help her through and to  
5 coach her when needed on the account.

6 Q How long was that assignment with the Capital  
7 Group?

8 A I don't remember how long it was. It was not  
9 a long assignment.

10 Q Does ten weeks sound about right?

11 A I don't know. I wouldn't guess.

12 Q Do you know whether Ms. Ranade's deliverable  
13 was achieved on that account?

14 A It was.

15 Q Do you know whether the ten weeks or whatever  
16 the duration was, do you know whether that time had  
17 completed?

18 A I believe it had.

19 Q Do you know if BT got any follow-on work with  
20 Capital Group?

21 A They did.

22 Q After this project that Nadine Ranade had been

1 on?

2 A They were given follow-on work, and they were  
3 told that they would only get follow-on work if she was  
4 not the project manager. They would not be given any  
5 work if she was the project manager.

6 Q Who said that?

7 A The company told Capital Group that -- I mean,  
8 Capital Group told BT that.

9 Q Who in Capital Group?

10 A I don't know. They told Dave Upton that.

11 Q Okay. Do you know if there's anything in  
12 writing from Capital Group that references that?

13 A Not that I have seen.

14 Q Is there anything in writing from Capital  
15 Group that you've seen that expresses any displeasure  
16 with Ms. Ranade or would that all have been coming from  
17 Dave Upton?

18 A It call came from Dave Upton.

19 Q After Capital Group, was there any effort to  
20 find another project for Ms. Ranade to work on?

21 A I don't know. I don't think so. But I don't  
22 know.

1 Q Would that have been up to Jayne Charlton to  
2 find another project or to match Nadine with a different  
3 project?

4 A Yes.

5 MS. RUBIN: Let's go off the record, please.

6 (Brief recess held.)

7 BY MS. RUBIN:

8 Q We were talking before we broke about the  
9 reasons for Ms. Ranade's termination from BT. If you  
10 could give me the official reasons, summary, BT's  
11 position on why Ms. Ranade was terminated?

12 MS. GUERRASIO: Objection.

13 A She was terminated for her performance.

14 BY MS. RUBIN:

15 Q What were the specifics of the performance  
16 deficiencies that caused her termination?

17 A This was the third account she was asked to be  
18 removed from.

19 Q So the two that we've already talked about,  
20 and then Capital Group with Dave Upton?

21 A Correct.

22 Q So after the Capital Group project, after she

1 was no longer on the Capital Group project, was there  
2 any effort to find another project for her to do?

3 MS. GUERRASIO: Objection.

4 A Not that I'm aware of.

5 BY MS. RUBIN:

6 Q So after the conclusion of her association  
7 with Capital Group, she was terminated?

8 A Yes.

9 Q Were there any other alternatives considered  
10 besides termination?

11 A Not that I'm aware of.

12 Q At what time was the decision made to  
13 terminate Ms. Ranade's employment? I believe she was  
14 terminated at the end of March. I want to say March 31.  
15 Does that sound right to you?

16 A Was she terminated on March 31 or April 1st?  
17 When talking to Ms. Charlton, she said that they --  
18 which is often common. They make the decision to  
19 terminate her -- I'll have to look at the date. But we  
20 usually terminate people early in the month so that they  
21 will have benefits through the rest of the month.

22 Q So April 1, does that sound like the right

1       working out whether we could do the accommodations on a  
2       long-term basis or not.

3           Q     Do you recall whether there was any  
4       controversy about whether Ms. Ranade would be required  
5       to work a regular schedule, like 8:00 to 1:00, or  
6       whether she would be able to work flexible time,  
7       depending on the client's needs?

8           A     She wanted to work flexible time, and we said  
9       she had to work a four-hour block of time.

10          Q     A regular schedule?

11          A     Yes.

12          Q     And why is that?

13          A     In order to be able to manage the  
14       accommodation so that she wouldn't get pulled into  
15       having worked more than four hours, so that she had a  
16       start and finish and her manager could go through and  
17       make sure that she would only work those four hours. So  
18       we stayed within the terms and conditions of her  
19       accommodation.

20          Q     So what role would the customer have in  
21       determining that schedule? And as you're thinking about  
22       that question, do you recall there being a desire for a

1       need to work on a flexible schedule coming from the  
2       client?

3                   MS. GUERRASIO:  Objection.

4           A       No.  She wanted to work a flexible schedule  
5       because of her client, but we said we were not able to  
6       accommodate that and went to the customer and said, this  
7       is what we can accommodate, can you accommodate that.

8       BY MS. RUBIN:

9           Q       What did the customer say?

10          A       The client said they were not able to  
11       accommodate that, because they had previously asked that  
12       she be removed, but they'd made a decision that based on  
13       where the project was, she wouldn't be; but they could  
14       not do this on top of that.

15          Q       Was that because they needed to have coverage  
16       for meetings and other activities that would possibly  
17       occur outside of the static 8:00 to 1:00 schedule?

18          A       They felt that they needed to have her when  
19       they needed her for as long as they needed her, and they  
20       could not guarantee that they would only need her for  
21       four hours on any given day.

22          Q       So ultimately, Ms. Ranade withdrew her request



1 schedule. According to my conversation with Jayne  
2 Charlton, the client didn't say they could accommodate  
3 her flexible schedule. They said they needed her when  
4 they needed her, whatever time they needed her, for  
5 whatever length of time they needed her. So they could  
6 not guarantee her only four hours a day. And that was  
7 the restriction that she had, that she only work four  
8 hours a day.

9 Q So at this point in October of 2010, what  
10 other contracts could Ms. Ranade have been assigned to?

11 A As with her accommodations of only four hours,  
12 I don't know if there would be any available. I would  
13 be surprised if there was anything that was available  
14 for those restricted hours. She would have been placed  
15 on the bench for the four hours that she was available  
16 to work.

17 Q And do you know what efforts, if any, Jayne  
18 Charlton made to find another project that could  
19 accommodate this intermittently request?

20 A I don't know if she did or did not.

21 Q And I injected a new term there,  
22 "intermittently request." Is that what BT understands

1 A Yes.

2 Q And would that have been a disability benefit  
3 that would have been available for someone on a  
4 restricted schedule or do you know?

5 A Yes.

6 Q Do you know what communication took place with  
7 respect to Ms. Ranade's qualification for that  
8 disability benefit?

9 MS. GUERRASIO: Objection. You can answer.

10 A She would be required to have completed all of  
11 the forms for short-term disability and submit them to  
12 the vendor, and they would have made that determination.

13 BY MS. RUBIN:

14 Q Okay. And who was the vendor for short-term  
15 disability at that time that would have been --

16 A Cigna.

17 Q Cigna?

18 A Uh-huh.

19 Q Do you know whether there was any effort  
20 made -- I may have asked you this, if I have forgive  
21 me -- to find another project in the October time frame  
22 when this e-mail was written?

1 MS. GUERRASIO: Objection.

2 A I don't know if there was any effort made at  
3 that point.

4 BY MS. RUBIN:

5 Q Ms. Ranade was not benched at this point; is  
6 that correct, also?

7 A I would have to -- I would have to check, but  
8 if she -- she may have still been on Unilever. If she  
9 was not, she would have been on the bench and still  
10 receiving pay for four hours a day.

11 Q Right, and still having the same  
12 responsibilities that a benched person has, to come to  
13 the office and engage in professional development that  
14 we talked about before?

15 A Correct.

16 Q Is Steve Kurtz a BT employee?

17 A Yes.

18 Q And David Upton is as well?

19 A Yes.

20 Q Debra Gessel, is she a BT employee?

21 A Yes.

22 Q Have you contacted any non BT employees in